

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Lyon Financial Services, Inc., a
Minnesota corporation, d/b/a U.S.
Bancorp Business Equipment
Finance Group with its principal
offices in Marshall, Minnesota,

Plaintiff,

vs.

Pacific Coast Mortgage, Inc.,
Robert Feidler and Gene
Pastorino, jointly and severally,

Defendants.

Court File No.: 0:06-cv-04879

**ANSWER OF PLAINTIFF TO
COUNTERCLAIM OF DEFENDANT
PACIFIC COAST MORTGAGE, INC.
(JURY TRIAL NOT DEMANDED)**

Plaintiff, for its Answer to the Counterclaim of Pacific Coast Mortgage, Inc., states and alleges as follows:

1. Except as herein after admitted, qualified or otherwise stated, denies each and every allegation in the Counterclaim of Pacific Coast Mortgage, Inc.
2. Specifically alleges that all equipment covered by the lease was delivered to Defendant Pacific Coast Mortgage, Inc.
3. Specifically allege that there was no revocation of acceptance by Defendants.
4. Specifically notes that an authorized person on behalf of Defendant, Pacific Coast Mortgage, Inc. executed an Acknowledgement that all equipment was delivered to, received by and accepted by Pacific Coast Mortgage, Inc. as covered by the lease in question.
5. Further allege and note that a "verbal" confirmation was done with Defendant Gene

Pastorino, whereby Mr. Gene Pastorino was called and he confirmed and indicated that all the equipment covered by the lease had been received by and accepted by Pacific Coast Mortgage, Inc.

6. Specifically allege and note that Defendants made seventeen (17) payments on the lease and at no point indicated to Plaintiff that any of the equipment had not been received (as covered by the lease) or that any of the equipment was not acceptable.

7. Further allege and state that when the lease went into default, that Plaintiff had the equipment covered by the lease repossessed and all equipment as described in the lease was at the location of Pacific Coast Mortgage, Inc. and was repossessed and received by Plaintiff as part of said collection efforts.

8. That accordingly Defendants received all equipment covered by the lease and that any allegations to the contrary are false and misleading.

9. That based on the foregoing, the acceptance of delivery of equipment as signed by an authorized person on behalf of Pacific Coast Mortgage, Inc. was not executed by a mistake, but was executed as true and correct -- namely that Defendant Pacific Coast Mortgage, Inc. received all the equipment covered by the lease.

10. That accordingly there was no "mutual mistakes" by and between the parties.

11. Plaintiff further alleges and notes that the contract by and between the parties requires that all issues be tried to the Court and that accordingly Defendants, jointly and severally, are not entitled to and should not receive a jury trial regarding any issues.

12. Plaintiff alleges that the counterclaims are barred by the contractual agreements between the parties.

WHEREFORE, Plaintiff requests judgment of this Court as follows:

1) Granting Plaintiff the relief requested in Plaintiff's Complaint.

- 2) Dismissing the Counterclaims of Defendant, Pacific Coast Mortgage, Inc. with prejudice.
- 3) Granting Plaintiff its costs, disbursements and attorneys' fees incurred in this collection effort, including the defense of the counterclaims alleged by Pacific Coast Mortgage, Inc.
- 4) Granting Plaintiff such other and further relief as the Court may deem just and equitable.

Dated this 15th day of December, 2006.

STONEBERG, GILES & STROUP, P.A.

By: /s/ Kevin K. Stroup

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Attorneys for Plaintiff